

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 75-78, 82-84, 86, 88-95, 97-103, 105-107, 109, 111, 112, 114-116, 118, 120-123, 125 and 137-146 are pending in the application, with claims 75, 90, 102, 103 and 125 being the independent claims. Claims 81, 87, 96, 110, 113, 117, 119, 124, and 126-136 are sought to be canceled without prejudice to or disclaimer of the subject matter therein. Claim 146 is sought to be added. Claims 75, 76, 90, 100, 101, 103, 109, 111, 114-116, 118-121, 123, 125, 137, 139, 140, 142, 143 and 145 are sought to be amended. Support for the new and amended claims can be found throughout the specification, including the claims as originally filed. No new matter is added by way of these amendments. It is respectfully requested that the amendments be entered and considered.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

I. Drawings

The drawings have been objected to for the reasons set forth in the Notice of Draftperson's Patent Drawing Review (Form 948) attached to the Office Action dated May 3, 2002. Replacement drawings are attached hereto.

II. Claim Objections

Claims 75, 103 and 125 were objected to for reciting "at least one second nucleotide sequence." *See* October 29, 2004 Office Action, page 2. The claim objections have been fully accommodated by the deletion of the word "second" from the expression "at least one second nucleotide sequence" in claims 75, 103 and 125.

III. Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 96 and 119 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. *See* October 29, 2004 Office Action, page 3. According to the Office Action, claims 96 and 119 recite "said RNA" without proper antecedent basis. *See id.*

Claims 96 and 119 have been canceled, thereby rendering the § 112, second paragraph rejections moot. Applicants note that new claim 146 has been added. New claim 146 clearly defines the subject matter that was originally intended to be encompassed by claim 96, while avoiding any potential antecedent basis issues.

IV. Claim Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 75-78, 81-84, 86-101, 103, 105-107 and 109-145 were rejected under 35 U.S.C. § 112, first paragraph, for lack of adequate written description and lack of

enablement. *See* October 29, 2004 Office Action, pages 3 and 16. The basis for the § 112, first paragraph rejections is the inclusion within the claimed subject matter of a first open reading frame which encodes a non-cytopathic, temperature-sensitive alphaviral replicase, wherein non-cytopathicity and temperature sensitivity are conferred by one or more mutations in the genes encoding the nonstructural proteins of the replicase. *See* October 29, 2004 Office Action, pages 4 and 16. Applicants respectfully traverse these rejections for the reasons set forth in Applicants' previous responses.

Nevertheless, solely to expedite allowance of the present application, independent claims 75, 90, 103 and 125 have been amended to recite: "a first open reading frame ["which encodes" or "having a nucleotide sequence encoding"] a non-cytopathic, temperature-sensitive Sindbis virus replicase, wherein the non-cytopathicity is conferred by a substitution of proline at position 726 of the nonstructural protein 2 (nsP2) of the replicase with another naturally occurring amino acid" In view of these amendments, Applicants believe that the rejections under 35 U.S.C. § 112, first paragraph, have been fully accommodated.

Applicants respectfully request that the rejections under 35 U.S.C. § 112, first paragraph, be reconsidered and withdrawn.

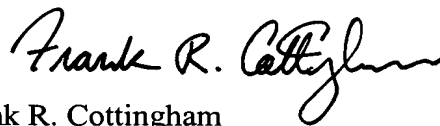
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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Date: FEB. 25, 2005

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